

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3736 OF 2005

Vijay Chabinath Singh @ Munna Thakur ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Haji Panna i/b.Mr. S.R.Pasbola for the Applicant.
Mr. R.Y. Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 01, 2005.

P.C.:

1. Heard Counsel appearing for the parties. The Applicant is a co-accused in a case registered under Sections 302, 397 and 452 read with section 34 of the Indian Penal Code.

2. It is not in dispute that the investigation is complete and chargesheet has been filed. The Application made by the Applicant for bail before the learned Additional Session Judge was rejected on the ground that the matter is very serious one and therefore, there is substance in the apprehension expressed that the Applicant is likely to abscond. The learned Additional Session Judge also observed that there is recovery of the stolen goods at the instance of the Applicant.

3. I have heard learned A.P.P. At this stage the evidence which is available against the Applicant is in the form of alleged recovery under section 27 of the Indian Evidence Act at the instance of the Applicant of the alleged stolen goods. It must be noted here that the recovery panchnama records that the Applicant pointed out the person to whom co-accused Deepak sold the stolen property. Same is the case with the other panchnama. Prima facie it is very difficult to accept that the recovery can be said to be at the instance of the Applicant. The only other piece of evidence against the applicant is statement of witness Mukesh Rakda recorded under section 164 of the Code of Criminal Procedure. All that is recorded in the said statement is the co-accused Deepak who is no more told the said witness that the Applicant and other accused Raju have committed the offence of murder.

4. The Applicant has been arrested on 23rd October, 2004. Considering the prima facie infirmities in the case of the prosecution, the Applicant deserves to be enlarged on bail. To ensure that the Applicant attends the dates fixed in the Trial Court, stringent conditions will have to be imposed on the Applicant.

5. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with C.R.No.384 of 2002 of Ghatkopar Police Station, subject to furnishing a personal bond of Rs.10,000/- with one or two local sureties in the like amount.

ii) The Applicant will be enlarged on bail only after the Applicant furnishes his detailed address of residence to the Superintendent of the concerned Jail. The Applicant will report to the concerned Police Station once in a week till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall co-operate with the

learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in the above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE